

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD  
CENTRAL PUGET SOUND REGION  
STATE OF WASHINGTON

FRIENDS OF PIERCE COUNTY, et al., CITY  
OF BONNEY LAKE, and MARILYN  
SANDERS, et al.,

Petitioners,

v.

PIERCE COUNTY,

Respondent

and

ORTON FARMS, et al., CITY OF SUMNER,  
BETHELL SCHOOL DISTRICT, PUYALLUP  
SCHOOL DISTRICT, and FORTERRA NW,

Intervenors,

and

WASHINGTON SUSTAINABLE FOOD AND  
FARMING NETWORK, et al.,

Amicus

**CASE NO. 12-3-0002c**

*(Friends of Pierce County)*

**ORDER FINDING COMPLIANCE  
[Re: Amendments C-5 and U-3]**

On July 9, 2012, the Board issued its Final Decision and Order (FDO) in this case. The Board ruled that Pierce County's adoption of Ordinance No. 2011-60s2 failed to comply with the Growth Management Act with respect to three challenged amendments – Amendments U-3a, C-5, and M-3. Concerning U-3a and C-5 (the Orton Junction amendments) the FDO provided:<sup>1</sup>

<sup>1</sup> Final Decision and Order (FDO) (July 9, 2012), p. 134.

- 1           1) Pierce County's adoption of Amendment U-3a and C-5 to Ordinance 2011-  
2           60s2 was clearly erroneous and does not comply with the goals and  
3           requirements of the GMA.

4           The Board remanded the matter to the County for compliance. The Intervenor in  
5 support of the Orton Junction amendments filed timely appeals and requested the Board to  
6 grant a stay of compliance proceedings pursuant to WAC 242-03-860. The Board granted  
7 the stay, based on the County's action in extending the effective date of Amendments U-3  
8 and C-5 pending judicial resolution.

9           Subsequently the Intervenor – appellants before the Court – moved to withdraw  
10 their appeal. On February 21, 2014, the Court of Appeals issued a Ruling Dismissing  
11 Appeal in Case No. 44081-4-II.<sup>2</sup> On March 25, 2014, the Pierce County Council adopted  
12 Emergency Ordinance No. 2014-16 repealing Amendments C-5 and U-3 (a and b) and any  
13 documents related to those amendments.

14           A Joint Stipulation on Compliance and Order of Dismissal (Amendments C-5 and U-  
15 3) was filed with the Board on April 22, 2014. The Stipulation was entered on behalf of all  
16 the parties to the Orton Junction portion of the proceedings:

- 17           • Petitioners Friends of Pierce County, Tahoma Audubon Society, American  
18           Farmland Trust, PCC Farmland Trust, and Futurewise;  
19           • Respondent Pierce County;  
20           • Intervenor City of Sumner, Forterra, Orton Farms LLC and Investco Financial  
21           Corporation.

22           The stipulation asserted that Pierce County's repeal of Amendments C-5 and U-3 brings the  
23 County into compliance with the requirements of the GMA as set forth in the Board's Final  
24 Decision and Order concerning these amendments. The parties stipulated to rescission of  
25 the Board's order granting stay, a finding of compliance, and dismissal of the Orton Junction  
26 portion of the case.

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32           <sup>2</sup> The Mandate from the Court of Appeals, Division II, was issued May 2, 2014, indicating entry of the final  
decision terminating review.

1 Pursuant to RCW 36.70A.330(1) and (2), the Board conducted a telephonic  
2 compliance hearing on May 5, 2014. Board members Margaret Pageler and Ray Paoletta  
3 attended the hearing. Deputy Prosecuting Attorney Peter Philley represented Pierce  
4 County.<sup>3</sup> James Halmo, a petitioner in the portion of the case concerning Amendment M-3,  
5 also attended.<sup>4</sup> The compliance hearing provided the Board an opportunity to clarify the  
6 action of the County in adopting Emergency Ordinance No. 2014-16. The Board also was  
7 advised of the status of the portion of the case concerning Amendment M-3.  
8

9 Based upon the stipulation of the parties and upon the motion, exhibits and  
10 arguments of the County, and being fully informed, **the Board finds and concludes:**

- 11 • By adopting Ordinance No. 2014-16 the County repealed comprehensive plan  
12 Amendments C-5 and U-3 which had been determined by the Board to violate  
13 provisions of the GMA.
- 14 • Accordingly, the County's comprehensive plan complies with the GMA and is  
15 consistent with the cited provisions of the comprehensive plan, countywide  
16 planning policies and multi-county planning policies as to these matters.<sup>5</sup>
- 17 • All parties to the proceedings challenging Amendments C-5 and U-3 stipulate  
18 to compliance and dismissal.
- 19 • As to Amendment M-3, the Final Decision and Order finding of GMA non-  
20 compliance (FDO, p. 135 (4)) and the provisions of stay pending appeal  
21 (September 12, 2012) remain in full force and effect.  
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24 **The Board orders:**

- 25 • The Order Granting Stay [U-3a and C-3] (August 21, 2012) is **rescinded**.  
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30 <sup>3</sup> The Board's Order Scheduling Compliance Hearing (April 29, 2014) provided: "Parties who have stipulated to  
31 compliance need not attend the hearing."

32 <sup>4</sup> Amendment M-3 concerns siting of rural schools. The Board's finding of non-compliance is on appeal before  
the Pierce County Superior Court.

<sup>5</sup> FDO (July 9, 2012) at 134-135, (1)(a), (b), (c).

- By repealing Amendments C-5 and U-3 Pierce County **complies** with the provisions of the GMA set forth in the July 9, 2012, Final Decision and Order, page 134 (1)(a), (b). and (c).
- The portion of Case No. 12-3-0002c concerning Amendments C-5 and U-3 is **dismissed**.

Dated this 6<sup>th</sup> day of May, 2014.

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Margaret Pageler, Board Member

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William Roehl, Board Member

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Raymond Paolella, Board Member